<u>**Language Submitted by Workers' Compensation Fund, July 2006**</u>

31A-33-106. Board of directors -- Status of the fund in relationship to the state.

(1) There is created a board of directors of the Workers' Compensation Fund.

(2) The board shall consist of seven directors.

(3) Subject to Subsection (8), one director:

(a) (i) shall be the executive director of the Department of Administrative Services or the executive director's designee; and

(ii) acts as the representative of the state as a policyholder of the Workers' Compensation Fund; or

(b) is a public director appointed in accordance with Subsection (8)(b).

(4) One director shall be the chief executive officer of the fund.

(5) (a) In accordance with a plan that meets the requirements of this section, the governor, with the consent of the Senate, shall appoint five public directors as follows:

(i) three directors who are owners, officers, or employees of policyholders other than the state, each of whom is an owner, officer, or employee of a policyholder that has been insured by the Workers' Compensation Fund for at least one year before the appointment of the director representing the policyholder; and

(ii) two directors from the public in general.

(b) The plan described in Subsection (5)(a) shall comply with Section **31A-5-409** to the extent that Section **31A-5-409** does not conflict with this section.

(6) No two directors may represent or be employed by the same policyholder.

(7) At least four directors appointed by the governor shall have had previous experience in:

(a) the actuarial profession;

(b) accounting;

(c) investments;

(d) risk management;

(e) occupational safety;

(f) casualty insurance; or

(g) the legal profession.

(8) (a) Any director who represents a policyholder that fails to maintain workers' compensation insurance through the Workers' Compensation Fund shall immediately resign from the board, including the executive director of the Department of Administrative Services or the executive

director's designee if the state is no longer insured by the Workers' Compensation Fund pursuant to Section **34A-2-203**.

(b) (i) If the state is no longer insured by the Workers' Compensation Fund pursuant to Section **34A-2-203**, the governor with the consent of the Senate, shall appoint a public director to replace the executive director of the Department of Administrative Services or the executive director's designee.

(ii) The public director appointed under this Subsection (8)(b) shall:

(A) be an owner, officer, or employee of a policyholder that has been insured by the Workers' Compensation Fund for at least one year before the appointment of the director representing the policyholder;

(B) have previous experience described in Subsection (7); or

(C) be the director of the Governor's Office of Economic Development.

(c) Once the executive director of the Department of Administrative Services or the executive director's designee is not a member of the board under Subsection (3), the state shall have a member on the board to represent the state as a policyholder only if the member is appointed in accordance with Subsection (5) or (8)(b).

(9) A person may not be a director if that person:

(a) has any interest as a stockholder, employee, attorney, or contractor of a competing insurance carrier providing workers' compensation insurance in Utah;

(b) fails to meet or comply with the conflict of interest policies established by the board; or

(c) is not bondable.

(10) After notice and a hearing, the governor may remove any director for cause which includes:

(a) neglect of duty; or

(b) malfeasance.

(11) (a) Except as required by Subsection (11)(b), the term of office of the directors appointed by the governor shall be four years, beginning July 1 of the year of appointment.

(b) Notwithstanding the requirements of Subsection (11)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of directors are staggered so that [~~approximately half of the board is appointed every two years~~] <u>no more than two terms expire in a calendar year</u>.

(12) Each director shall hold office until the director's successor is appointed and qualified.

(13) When a vacancy occurs in the membership of the

board for any reason, the replacement shall be appointed for the unexpired term.

(14) The board shall annually elect a chair and other officers as needed from its membership.

(15) (a) The board shall meet at least quarterly at a time and place designated by the chair.

(b) The chair:

(i) may call board meetings more frequently than quarterly; and

(ii) shall call additional board meetings if requested to do so by a majority of the board.

(16) Four directors are a quorum for the purpose of transacting all business of the board.

(17) Each decision of the board requires the affirmative vote of at least four directors for approval.

(18) (a) (i) [~~Directors shall~~] With the approval of the commissioner, directors may receive [~~no~~] reasonable compensation [~~or benefits~~] for their services[~~, but may receive per diem~~] and reasonable expenses incurred in the performance of the director's official duties [~~at the rates established by the Division of Finance under Sections **63A-3-106** and **63A-3-107**~~] .

(ii) All compensation and expenses shall be reported pursuant to Section 31A-5-416.

(b) Directors may decline to receive [~~per diem~~] compensation and expenses for their service.

(c) The fund shall pay the [~~per diem allowance~~] compensation and expenses from the Injury Fund upon vouchers drawn in the same manner as the Workers' Compensation Fund pays its normal operating expenses.

(d) The following shall serve on the board without [~~a per diem allowance~~] compensation :

(i) the executive director of the Department of Administrative Services, or the executive director's designee;

(ii) the chief executive officer of the Workers' Compensation Fund; and

(iii) the director of the Governor's Office of Economic Development if appointed under Subsection (8).

(19) The requirement that the governor, with the consent of the Senate, appoint the directors of the Workers' Compensation Fund specified in Subsection (5) or (8), does not:

(a) remove from the board of directors the managerial, financial, or operational control of the Workers' Compensation Fund;

(b) give to the state or the governor managerial, financial, or operational control of the Workers' Compensation Fund;

(c) consistent with Section **31A-33-105**, cause the state to be liable for any:
(i) obligation of the Workers' Compensation Fund; or
(ii) expense, liability, or debt described in Section **31A-33-105**;
(d) alter the legal status of the Workers' Compensation Fund as:
(i) a nonprofit, self-supporting, quasi-public corporation; and
(ii) an insurer:
(A) regulated under this title;
(B) that is structured to operate in perpetuity; and
(C) domiciled in the state; or
(e) alter the requirement that the Workers' Compensation Fund provide workers' compensation:
(i) for the purposes set forth in Section **31A-33-102**;
(ii) consistent with Section **34A-2-201**; and
(iii) as provided in Section **31A-22-1001**.

Amended by Chapter 275, 2006 General Session